

### UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,113	05/08/2001	Christian Oldendorf	Q64288	4642
7	7590 10/28/2002			•
Sughrue Mion Zinn Macpeak & Seas PLLC 2100 Pennsylvania Avenue NW Washington, DC 20037-3202			EXAMINER	
			GIBSON, RANDY W	
			ART UNIT	PAPER NUMBER
			2841	
			DATE MAIL ED: 10/28/2002	DATE MAIL ED: 10/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action, Summary    Randy W. Gibson   2841   2841		Application No.	Applicant(s)				
Randy W. Gibson  - Th MAILING DATE of this communication appears on the cover she to with the correspond not address—  Peri of for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Educations of time may be available under the provisions of 37 CPR 1.136(a). In no event, however, may a reply be timely filled after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is applied above, the mailing date of this communication.  - If NO period for reply is applied above, the mailing date of the substancy minimum of histy (30) stay with be considered timely.  - If NO period for reply is applied above, the mailine advanced stage yet and ville greats (4) MONTHS from the mailing date of this communication.  - Finiture to reply within the soft or extended period for reply with, by statute, cause the application to become ABANDCNED (35 U.S.C. § 133).  - Any reply received by the Office later than there mornal application to become ABANDCNED (35 U.S.C. § 133).  - Any reply received by the Office later than there mornal application to be communication, even if timely filed, may reduce any summed patent term adjustment. See 37 CPR 1.704(b).  Status  1) Responsive to communication(s) filled on		09/850,113	OLDENDORF ET AL.				
- Th MALING DATE of this communication appears on th cov r sh t with th correspond nc address—Peri d for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Exhasions of them may be variable under the provisions of 37 CPR 1.198(a). In no event, however, may a reply be timely filed after SIX (b) MONTH(S) from the mailing date of this communication.  - If the period for reply specified does in last handle of the communication.  - If the period for reply specified does in last handle of the communication.  - If the period for reply specified does in last handle or the state of the	Office Action, Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.188(a). In so event, however, may a reply be timely filed after StZ (of MCNTH'S from the mailing date of this communication.  - If INO period for reply is specified above, the maximum statutory period vitil apply and vitil expire StZ (69 MCNTH'S from the mailing date of this communication.  - If all the city within the set or standard period for reply vitil, by static, cause the supplication to become AAMONONEO (38 LD S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any example partent from disjustmost. See 37 CFR 1.76(b).  Status  1) Responsive to communication(s) filed on		Randy W. Gibson	2841				
THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be variable under the provisions of 3 CFR 1.18(a). In no event, however, may a reply be timely filled after SIX (8) MONTHS from the mailing date of this communication.  - If the period for reply is specified above, the set hard thirty (20) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If the period for reply is specified above, the maintimum statutory parted will apply and will apply and will explice 30X (6) MONTHS from the statistic communication.  - If the period for reply is specified above, the maintimum statutory parted will apply and will explice 30X (6) MONTHS from the statistic communication.  - If the period is reply is specified above, the maintimum statutory minimum of thirty (30) days will be considered timely.  - If the period of the period of the state than there are not a state of the scanning of the sc							
2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-13 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) 1-13 is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on 08 May 2001 is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11)  The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1.  Certified copies of the priority documents have been received in Application No. 09/019,712.  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
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a) ☐ The translation of the foreign language provisional application has been received. 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152) 6) Other:							

Application/Control Number: 09/850,113

Art Unit: 2841

### **DETAILED ACTION**

# Reissue Applications

 Please note that the original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed.
 See 37 CFR 1.178.

# Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by East German patent # DD 265,229 A1. From the translation it appears that the DD patent allows a user to re-calculate a ratio of ingredients based on a current weight reading.

### Conclusion

3. It is noted from the parent case that the applicant's foreign priority document has a filing date that precedes the filing date of U. S. patent # 5,544,684 to Robinette, III, the closest U.S. prior art reference.

Art Unit: 2841

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.

Randy W. Gibson Primary Examiner Art Unit 2841

October 25, 2002